

REMARKS

This response addresses the Office Action mailed June 27, 2006. Reconsideration of the present application is respectfully requested.

1. Allowability of Claims 2-5, 8-11, 15 and 17-21

In the Office Action mailed June 27, 2006, Applicant's Claims 17-21 were allowed and Claims 2-5, 8-11 and 15 were indicated to be allowable if rewritten in independent form including all the limitations of their respective base claims and any intervening claims. Applicant gratefully acknowledges the indicated allowability of these claims.

2. Restriction and cancellation of non-elected Claims 22-28

The Office Action mailed June 27, 2006, made final the restriction requirement included in the prior Office Action dated March 21, 2006. Although Applicant does not agree with the restriction requirement, Applicant will not further traverse the *claims* restriction. Accordingly, with this response, Applicant cancels without prejudice the non-elected claims associated with Group II, namely Claims 22-28.

3. Rejoinder of Claim 13

The prior restriction requirement included a *species* restriction between Claim 13 (species Ia) and Claim 14 (species Ib) to which Applicant responded with a provisional election of Claim 14 (species Ib). Non-elected Claim 13 depends from Claim 12 which is allowable for the reasons explained below. Accordingly, with respect to the *species* restriction, Applicant submits that non-elected Claim 13 is eligible for rejoinder because it depends from an allowable elected claim, Claim 12. See, MPEP 821.04.

In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim.
(MPEP 821.04)

Based on the rejoinder provisions in the MPEP, the *species* restriction of Applicant's Claim 13 should be withdrawn and Claim 13 should be allowed.

4. Rejection of Claims 1, 6, 7, 12, and 16 under 35 U.S.C. § 102

In the Office Action, dated June 27, 2006, Applicant's Claims 1, 6, 7, 12 and 16 were rejected as anticipated by U.S. Pat. No. 6,850,841. These same claims were rejected as anticipated by this same patent in the prior Office Action, dated March 29, 2005 to which Applicant submitted two Declarations under 37 CFR 1.131 signed by all the inventors of the present patent application that established invention of the subject matter of these claims before the filing date of May 15, 2003 of U.S. Pat. No. 6,850,841. Accordingly, Applicant respectfully requests that the rejection of Claims 1, 6, 7, 12 and 16, as anticipated by U.S. Pat. No. 6,850,841, be withdrawn.¹ For the convenience of the Examiner, copies of the previously submitted Declarations under 37 CFR 1.131 are included with this response.

5. Conclusion

With this response, Applicant has addressed all the issues in the Office Action mailed June 27, 2006. Applicant submits that the present application has been placed in condition for allowance. If any issues remain, the Examiner is invited to call the undersigned at the telephone number below.

Respectfully submitted,



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¹ Although the present response includes declarations by the inventors establishing invention of the subject matter of Claims 1, 6, 7, 12 and 16 before the filing date of U.S. Pat. No. 6,850,841, Applicant does not concede that these claims would otherwise be anticipated by or rendered obvious over U.S. Pat. No. 6,850,841. To the extent permissible by law, Applicant reserves the right to establish the patentability of the claims of the present application over the disclosure of U.S. Pat. No. 6,850,841.